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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/776,400
Filing Date: February 11, 2004
Appellant(s): SNYDER, JOHN

MAILED

AUG 24 2007

Technology Center 2100

Dale B Harding
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/8/2007 appealing from the Office action mailed 1/25/2007.

(1) Real Party in Interest

A statement identifying by name the real party of interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

- A Petition filed under 37 CFR 1.47(b) dated 7/12/2004 and the related Petition Decision dated 8/11/2004, said petition related to inventors refusing to sign the oath or declaration.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 1-21 are pending in the application. Claims 1-21 stand rejected under 35 USC 101. Claims 1-21 stand rejected under 35 USC 102(e). The rejection of claims 1-21 under 35 USC 112, first paragraph, is withdrawn.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: the rejection of claims 1-21 under 35 USC 112, first paragraph, is withdrawn.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following references are applied by the examiner in the cited rejection:

- Ye et al., US Patent Publication 2004/0083242, filed 10/20/2003, published 4/29/2004 (hereinafter Ye).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claims 1-21, the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of § 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such they fail to fall within a statutory category. They are, at best, functional descriptive material, *per se*.

Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Ye et al. US Patent Publication 2004/0083242, filed 10/20/2003, published 4/29/2004 (hereinafter Ye).

Regarding independent claim 1, Ye discloses converting an input text document into an XML document. Ye recites: "*The prior technologies for locating and transforming the data in a data file includes the XML Converter developed by the Unidex company. The XML Converter transforms the data in the data file having simple and delimited format*" (paragraph 5). Ye discloses the resultant XML document does not contain every element that was in the input document. Ye recites: "*when the type of the data unit is not "Text", selecting a different data unit as the location reference for the data unit*" (paragraphs 17-18).

Regarding dependent claims 2 and 3, Ye discloses the input document as structured and semi-structured text documents. Ye recites: "*the invention has an advantage of being capable to transform data in the data files having various structures*" (paragraph 76).

Regarding dependent claim 4, Ye discloses the input document with at least two formats. Ye recites: "in order to exchange data, it is firstly needed to understand, analyze and process the original data having different formats" (paragraph 4).

Regarding dependent claims 5-7, Ye discloses the use of a field separator in the text document (claim 5), wherein the separator is a comma (claim 6) or a regular expression (claim 7). Ye recites: "*For example, it requires the data file to be processed must consist of records, where each record is a sequence of fields. The records and the fields are delimited by separators. The fields that are not delimited must have fixed length*" (paragraph 5). See also the text input document shown in Figure 4, where some of the input text is delimited by commas.

Regarding dependent claim 8, Ye discloses a match command for the text conversion. Ye recites: "*the above prior art, however, can only apply in specific application environments, and provide the key words matching or semantic analysis*" (paragraph 10).

Regarding dependent claim 9, Ye discloses an XML tree hierarchy. Ye discloses generating an XML document from an input stream, as described above. XML documents are processed by a parsing process that inherently builds a tree hierarchy structure.

Regarding dependent claims 10 and 11, Ye discloses the input as streaming text (claim 10) and the output as streaming XML (claim 11). Ye recites: *"It will be understandable that the persons in the art may employ any kinds of software and/or hardware to implement the function of each of the units in the data transforming device according to the invention. For example, the known computer, Web server, network and/or the software running in these facilities may implement the invention"* (paragraph 184).

Regarding dependent claim 12, Ye discloses a wizard that has a number of queries that are used to define the transformer program. Ye recites: *"the invention has another advantage of enabling a user to flexibly set the extraction rule and output rule on the original data when necessary"* (paragraph 77).

Regarding dependent claim 13, Ye discloses the input is from a legacy system. Ye recites: *"the specialized data transformation tool is developed for a particular application system, in order to transform an original data into an objective data"* (paragraph 3).

Regarding claims 14-18 and 19-21, the claims are directed toward a process and a system for the system of claims 1-13 and are rejected using the same rationale.

(10) Response to Argument

Appellant argues that the claimed invention is statutory (top of page 8 to the top of page 9, of the Appeal brief filed 5/8/2007), wherein appellant argues that the claimed invention is a machine. However, the examiner disagrees. The claimed invention is directed to a transformer program (independent claims 1 and 14) or a transformer document (independent claim 19) that is executed by a processor. The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of § 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such they fail to fall within a statutory category. They are, at best, functional descriptive material, *per se*.

Appellant argues that the written description supports the claim amendment related to the "*compound statement*" aspect of the invention. The examiner has withdrawn the rejection of claims 1-21 made under 35 USC 112, first paragraph.

Appellant argues that the cited prior art of record does not anticipate the claimed invention (the middle of page 10 to page 16, of the Appeal Brief filed

5/8/2007). The examiner disagrees. Appellant argues that Ye fails to disclose an "input text file" (page 10, second to last paragraph, of the Appeal Brief filed 5/8/2007). Ye discloses a data file used for input, as described above. See also Ye's Figure 5, at reference sign 110, where the original data file is used as the input to the invention. Appellant further argues that Ye fails to disclose the claimed feature of: "*XML document does not contain every element that was in the input text*" (page 10, last paragraph, of the Appeal Brief filed 5/8/2007). Ye discloses a data transforming method (paragraph 1) where the method determines a data type for the input unit (see paragraphs 14-16) and if the input unit is not text, selecting a different unit as a location reference for the input unit (paragraphs 17-18). Hence, if the input unit is not text, the result is only a reference to the input unit, and the input unit is not contained in the result.

Appellant argues that Ye fails to disclose compound statements (page 11, first paragraph, of the Appeal Brief filed 5/8/2007). It should be noted that the originally filed specification is directed toward "*executable statements*" and that "*compound statements*" was part of an amendment filed 10/3/2006. The specification does not tell one of ordinary skill how an executable statement is different than compound statement, and hence the examiner has concluded that a compound statement is the same as an executable statement. Ye discloses the "*XML Converter developed by the Unidex company*" (paragraph 5). Unidex's XML Converter is a program, which is inherently written with executable statements.

Appellant argues that Ye fails to disclose "*streaming data*" and a "*streamed text file*" (Page 11, second paragraph, of the Appeal Brief filed 5/8/2007), in relation to the features of claim 1, however claim 1 fails to recite either of these features.

Appellant argues that Ye fails to disclose the features related to dependent claim 2 (page 12 first paragraph, of the Appeal Brief filed 5/8/2007). The examiner's rejection to claim 2 is stated above. In response to appellant's argument that the references fail to show certain features of appellant's invention, it is noted that the features upon which appellant relies (i.e., "*an example of a structured file is a comma delimited file*") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Appellant argues that Ye fails to disclose the features related to dependent claim 3 (page 12 second paragraph, of the Appeal Brief filed 5/8/2007). The examiner's rejection to claim 3 is stated above. In response to appellant's argument that the references fail to show certain features of appellant's invention, it is noted that the features upon which appellant relies (i.e., "*an example of semi-structured text is a windows initialization file*") are not recited in the rejected claim(s). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Appellant argues that Ye fails to disclose the features related to dependent claim 4 (page 12 third paragraph, of the Appeal Brief filed 5/8/2007). The examiner's rejection to claim 4 is stated above. In response to appellant's argument that the references fail to show certain features of appellant's invention, it is noted that the features upon which appellant relies (i.e., "*For instance, it might have a part that is comma delimited and another part that is delimited by brackets*") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Appellant argues that Ye fails to disclose a "*a field separator command that defines a field separator in the text document*" (page 12 fourth paragraph, of the Appeal Brief filed 5/8/2007). Ye discloses a field separator in the text document, as described above.

Appellant argues that Ye fails to disclose the features of dependent claims 9-13 (page 12 last paragraph to page 13 fourth paragraph, of the Appeal Brief filed 5/8/2007). The rejection of these claims is described above.

Appellant argues that Ye fails to disclose "*streaming*" in relation to the features of claim 14 (page 13 fifth paragraph, of the Appeal Brief filed 5/8/2007).

Ye discloses a transformer program that converts text to XML, as described above, where *"persons in the art may employ any kinds of software and/or hardware to implement the function of each of the units in the data transforming device according to the invention. For example, the known computer, Web server, network and/or the software running in these facilities may implement the invention"* (paragraph 184). As appellant points out, streaming is well known in the art, and is also supported by Ye's references mentioned in the Background section of Ye's disclosure, and in particular Unidex's XML Converter program, and US Patents 4,965,763 and 5,664,109 (see paragraphs 5-7 of Ye). Most notable is patent 4,965,763, which positively recites streaming data features in claims 1 and 2.

Appellant further argues that Ye fails to disclose matching (page 13 sixth paragraph, of the Appeal Brief filed 5/8/2007). The examiner disagrees. Ye discloses: *"a command that matches a regular expression"*. Ye recites: "To solve the above problems in the prior art, an object of the invention is to provide a data locating apparatus and method based on text markup matching" (paragraph 12).

Appellant also argues that Ye fails to disclose the "compound statement" aspect of the invention (page 13 last paragraph, of the Appeal Brief filed 5/8/2007). The rebuttal of this argument is presented above.

Appellant argues that Ye fails to disclose a "wizard". Appellant defines a wizard as *"a wizard has a number of queries that are used to defined the*

transformer program" (page 2, lines 24-25, of the originally filed specification).

The examiner contends that Ye discloses this feature. Ye recites: "*the invention has another advantage of enabling a user to flexibly set the extraction rule and output rule on the original data when necessary*" (paragraph 77).

Appellant's arguments related to the rejection of claims 15-20 (page 14 to 16 of the Appeal Brief filed 5/8/2007) are directed toward substantially the same arguments for the rejections of claims 1-14. The examiner's rebuttal for these arguments are presented above.

(11) Related Proceeding(s) Appendix

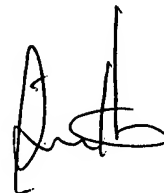
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 2178

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Gregory J. Vaughn/
Patent Examiner
Art Unit 2178
August 15, 2007

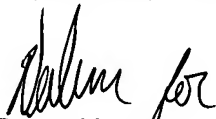


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